

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

WALTER ALFONSO BELLMAN,

Plaintiff,

Case. No. 18-10872

v.

Honorable Thomas L. Ludington
Magistrate Judge David R. Grand

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING REPORT & RECOMMENDATION, GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT, AND AFFIRMING THE DECISION OF THE
COMMISSIONER**

On April 11, 2015, Plaintiff applied for Disability Insurance Benefits (DBI) and Supplemental Security Income (SSI) alleging a disability onset date of January 1, 2014. Bellman's applications for DIB and SSI were denied initially on June 30, 2015, and he timely requested a hearing thereafter. (Tr. 85, 100-102, 218). A hearing was held on October 4, 2016, before ALJ Crystal L. White-Simmons. (Tr. 11-21). During the hearing, impartial Vocational Examiner ("VE") Toni M. MacFarland testified, as did Bellman, represented by attorney Kathy Koziol.

Following the five-step sequential analysis, the ALJ found that Bellman is not disabled under the Act. At Step One, the ALJ found that Bellman has not engaged in substantial gainful activity since his alleged onset date, January 1, 2014. (Tr. 13). At Step Two, the ALJ found that Bellman had the following severe impairments: spine disorder; diabetes mellitus; hypertension; affective disorder; and chronic pancreatitis. (Tr. 14). At Step Three, the ALJ found that Bellman did not have an impairment or combination of impairments that met or medically equaled the

severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1. (Id.). But, at Step Three, the ALJ also found Bellman had moderate restrictions with concentration, persistence, or pace (“CPP”); mild difficulties interacting with others; and mild limitations caring for himself independently. (Tr. 15-16). The ALJ then assessed Bellman’s residual functional capacity (“RFC”), concluding that he is capable of performing sedentary work except: no climbing ladders, ropes or scaffolds; no more than occasional climbing ramps/stairs, balancing, stooping, kneeling, crouching or crawling; restricted to simple, routine and repetitive tasks; and requires the option to alternate between sitting and standing about every 30 minutes. (Tr. 16). At Step Four, the ALJ found Bellman has no past relevant work. (Tr. 19). At Step Five, considering Bellman’s age, education, work experience and residual functional capacity, the ALJ found there are jobs that exist in significant numbers in the national economy that Bellman can perform. (Tr. 19).

On March 20, 2017, the ALJ issued an Unfavorable Decision finding Bellman not disabled. (Id.). Bellman timely requested review from the Appeals Counsel on February 24, 2017. (Tr. 1, 7). The Appeals Council denied Bellman’s appeal on January 24, 2018, and he timely filed the instant suit thereafter. (Doc. #1). The matter was referred to Magistrate Judge David E. Grand (ECF No. 3). Plaintiff filed his motion for summary judgment on July 18, 2018 (ECF No. 13), and Defendant filed its motion for summary judgment on August 1, 2018. On March 20, 2019, Judge Grand issued a report recommending that Plaintiff’s motion be denied, that Defendant’s motion be granted, and that the decision of the commissioner be affirmed (ECF No. 17).

Although the magistrate judge’s report explicitly states that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the

report, neither party has filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal. *Id.*

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 17, is **ADOPTED**.

It is further **ORDERED** that Plaintiff's Motion for Summary Judgment, ECF No. 13, is **DENIED**.

It is further **ORDERED** that Defendant's Motion for Summary Judgment, ECF No. 14, is **GRANTED**.

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: April 8, 2019